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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,761	11/18/2003	Anton Hirtl	DT-6665	5274

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EXAMINER
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LOPEZ, MICHELLE

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/715,761

Applicant(s)

HIRTL ET AL.

Examiner

Michelle Lopez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 5, 9, 10, 12, 20 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8, 11, 13-19 and 22-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Applicant's election of Species I, reading on claims 1-4,6-8,11,13-19,22-24, in the reply filed on May 24, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

#### ***Claim Objections***

2. Claim 22 is objected to because of the following informalities: in line 2, it should read "locking element (31)" instead of "pawl element (31)". Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 6-8, 11, 18 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "servo-component". There is insufficient antecedent basis for this limitation in the claim.

Also, in claim 6, it is not clear which of the features (the locking element, the axle, or the servo-component) is displaceable in the setting tool.

In claim 18, it is not clear what is meant by "entrain member".

In claim 23, it is not clear whether it is claiming one or two stop, since line 2 recites "the stop", further line 3 recites "a stop".

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 13-19, 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirkman (4,804,127) in view of Ehmig (6,286,743).

Kirkman discloses a setting tool, comprising a sleeve-shaped housing; a piston guide 14; a piston 16 displaceable in the piston guide; an ignition unit 19 located in the housing and axially displaceable therein; a cartridge chamber 14C arranged between the piston guide 14 and the ignition unit 19, the ignition unit having an ignition element 13F for igniting the propellant; and a locking device 44 having a locking position in which the ignition unit is held in a pre-loaded position against an energy accumulator 24 and in which the cartridge chamber 14C remains open, and having a release position in which the ignition unit is displaced to an ignition position thereof by the energy accumulator.

With respect to claim 1, Kirkman does not disclose that the ignition unit has a cartridge chamber bottom for enclosing a propellant in the cartridge chamber.

However, Ehmig teaches an ignition unit 2 having a cartridge chamber bottom for enclosing a propellant in a cartridge chamber 3 for the purpose of effectively conducting a generated propellant gas through connection channels, preventing leakage of the gas. In view of Ehmig, it would have been obvious to one having ordinary skill in the art to have provided Kirkman's invention with a cartridge chamber bottom for enclosing a propellant in the cartridge

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chamber in order to effectively conduct a generated propellant gas through connection channels, preventing leakage of the gas.

With respect to claims 2 and 3, Kirkman discloses wherein the ignition element 13F, as an ignition peg, is fixedly secured on the ignition unit 19 and is displaceable therewith.

With respect to claim 4, Kirkman discloses wherein the locking device 44 comprises at least one pivotal locking element formed as a locking pawl, and wherein the locking pawl has a locking position in which a pawl section 47 of the locking pawl extends into a displacement path of the ignition unit 19 as shown in Fig. 3, and a release position via 48 in which the pawl section 47 is pivoted out of the displacement path of the ignition unit 19.

With respect to claim 13, Kirkman discloses switch means via 37 for displacing the locking element 44 from the locking position.

With respect to claim 14, Kirkman discloses safety means 27 having a release position as shown in Fig. 2 in which the safety means does not extend into displacement path of the ignition unit 19, permitting displacement of the ignition unit in a direction toward the cartridge chamber 14C, and having a locking position as shown in Fig. 1 in which the safety means 27 extends into the displacement path of the ignition unit 19, permitting displacement of the ignition unit away from the cartridge chamber but blocking the displacement of the ignition unit in the direction toward the cartridge chamber.

With respect to claim 15, Kirkman discloses a catch pawl via 27S.

With respect to claims 16 and 17, Kirkman discloses wherein the spring means 23 bias the locking element 44 to the locking position as shown in Fig. 3 thereof in which it extends into

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the displacement path of the ignition (claim 16), and spring means 28 for biasing the safety element 27 to the locking position (claim 17).

As far as claim 18 was understood, it is deemed that the locking element 44 forms an entrain member, as the locking element 44 has a locking and a release position.

With respect to claim 19, Kirkman discloses crank means via 18 for pivoting the locking element 44.

With respect to claim 22, Kirkman discloses wherein the pawl section 47 of the locking element 44 is spaced from a stop at the vicinity of 21 provided in the housing, but does not disclose that it is spaced from the stop in a locking position by a distance corresponding substantially to an axial length of the ignition unit.

However, it would have been obvious to one having ordinary skill in the art to have provided a distance corresponding substantially to an axial length of the ignition unit, since applicant has not disclosed that such distance solves any stated problem or is for any particular purpose and it appears that Kirkman's invention would perform equally well with a locking element spaced from a stop at the vicinity of 21 for the purpose of properly providing a locking position of the ignition unit.

With respect to claim 23, Kirkman discloses a damping element via 21 supported against the stop, but does not disclose that the pawl section 47 of the locking element is spaced from the stop in a locking position by a distance corresponding substantially to an axial length of the ignition unit and an axial length of the damping element.

However, it would have been obvious to one having ordinary skill in the art to have provided a distance corresponding substantially to an axial length of the ignition unit and an

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axial length of the damping element, since applicant has not disclosed that such distance solves any stated problem or is for any particular purpose and it appears that Kirkman's invention would perform equally well with a locking element spaced from a stop and damping element 21 for the purpose of properly providing a locking position of the ignition unit.

With respect to claim 24, Kirkman discloses a guide 60 for a cartridge strip 61 as shown in Figs. 3-4.

***Allowable Subject Matter***

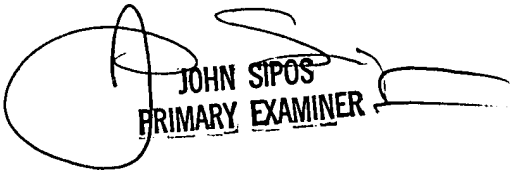
5. Claims 6-8 and 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bakoledis'824, Kopf'376, and Kopf'851 are cited to show related inventions.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 571-272-4464. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

  
JOHN SIPOS  
PRIMARY EXAMINER

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8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ML